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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

**MIKETAVIOUS BROOKS
LA. DOC #447090**

CIVIL ACTION NO. 3:10-cv-1886

VERSUS

SECTION P

JUDGE ROBERT G. JAMES

SHERIFF ANDY BROWN, ET AL.

MAGISTRATE JUDGE KAREN L. HAYES

RULING

Pending before the Court is a civil rights Complaint filed, pursuant to 42 U.S.C. § 1983, by *pro se* Plaintiff Miketavious Brooks, proceeding *in forma pauperis*. Plaintiff is an inmate in the custody of Louisiana's Department of Public Safety and Corrections ("LDOC"). He is currently incarcerated at the Claiborne Parish Detention Center ("CPDC"), but complains of actions by Defendants at Jackson Parish Correctional Center ("JPCC"), his previous place of confinement. In his original Complaint, filed on December 10, 2010, Plaintiff sued Jackson Parish Sheriff Andy Brown, JPCC Warden Dave Yelverton, and JPCC.

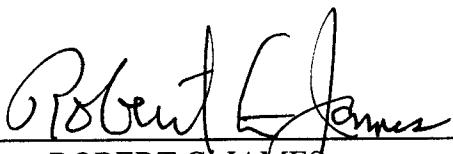
On April 26, 2011, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 8], recommending that the Court dismiss Plaintiff's claims pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and for failure to comply with the orders of the Court. Specifically, Magistrate Judge Hayes recommended dismissal because Plaintiff had not complied with her February 17, 2011 Order to amend his Complaint by March 21, 2011, to provide the information identified in her Order. Plaintiff had not requested an extension of time or had any contact with the Court since January 26, 2011, when he filed his IFP application.

However, on May 13, 2011, Plaintiff filed a “Formal Objection to Magistrate Judge Karen L. Hayes[’] Report and Recommendation /Motion for Extension of Time” (“Objection”) [Doc. No. 9], which was accompanied by a “Motion in Amendment of 42 U.S.C. § 1983” (“Motion to Amend”) [Doc. No. 10]. In the Objection, Plaintiff moved the Court for an extension of time to amend his complaint. He contends that he timely complied with Magistrate Judge Hayes’ February 17, 2011 Order, by placing the Motion to Amend in the mailbox at CPDC on March 18, 2011. He believed the Court had received the Motion to Amend. Plaintiff can only surmise that either the CPDC or the United States Postal Service lost the Motion to Amend, neither of which is his fault.

In support of his Objection, Plaintiff enclosed a copy of the Motion to Amend, in which he details more facts about his claims and in which he moves to dismiss JPCC as a Defendant.

Having fully reviewed the record in this matter, including Plaintiff’s Objection and the Motion to Amend, the Court DECLINES TO ADOPT Magistrate Judge Hayes’ Report and Recommendation. Plaintiff’s Motion for Extension of Time, contained within his Objection [Doc. No. 9], is GRANTED, and his Motion to Amend [Doc. No. 10] is GRANTED. As requested in his Motion to Amend, Plaintiff’s claims against JPCC are DISMISSED. This matter is REMANDED to Magistrate Judge Hayes for further proceedings and the issuance of a second Report and Recommendation.

MONROE, LOUISIANA, this 18th day of May, 2011.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE